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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/612,065	07/03/2003	Hisahiro Higashi	239780US0DIV	3502
22850	7590	10/01/2004	EXAMINER	
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			GUHARAY, KARABI	
			ART UNIT	PAPER NUMBER
			2879	

DATE MAILED: 10/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/612,065

Applicant(s)

HIGASHI ET AL.

Examiner

Karabi Guharay

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 7/7/04 *QW 9/29/04*
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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Amendment, filed on 07/07/2004 has been considered and entered.

Amendment of claim 3 overcomes the objection to claim 3.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 2-6 are rejected under 35 U.S.C. 102(e) as being anticipated by Woo et al. (US 6169163).

Regarding claims 2 & 3, Woo discloses an organic EL device that comprises organic compound layers including at least one organic emitting layer sandwiched between a pair of electrodes (lines 44-53 of column 20) wherein at least one organic compound is formed from an organic compound (polymers are used as luminescent material, lines 30-32 of column 1, & lines 6-9 of column 21). Example 5 describes the purification of the luminescent material 2,7-Dichloro-9,9-di (3-methyl-1-butyl) fluorene by HPLC , which is 99 percent or greater purity (see col. 23, lines 59-67). The degree of purity disclosed by Woo reads upon the purity level of instant claim. Since the reactive materials used to obtain the polymer are halogen (in this case, dichlorofluorene) any impurities from unreacted starting materials are halogen containing (see col. 23, lines 59-67, & Example 1, col. 22, lines 54-65). Example 1 describes that HPLC shows

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complete disappearance of the starting halogen compound (lines 63-65 of column 22), thus indicating almost 0 ppm of residual unreacted halogen compound.

Regarding claim 4, Woo discloses that in EL device, the organic compound layers are a hole injecting layer, an organic emitting layer and electron injection layer (see Col 51, Table 5).

Claims 5 & 6, are considered to be product-by-process claims, since drawn to a process of purifying the organic compound, which is incidental to the claimed organic compound.

Even though product by process claims are limited by and defined by the process, determination of patentability is based on the product. It is well established that a claimed apparatus cannot be distinguished over the prior art structure by a process limitation. Consequently, absent a showing of an unobvious difference between the claimed product and the prior art, the subject process limitation is not afforded patentable weight (see MPEP 2113).

Response to Arguments

Applicant's arguments filed 07/07/2004 have been fully considered but they are not persuasive. In response to applicant's argument, it is the examiner's position that the luminescent material in the reference is a polymer of fluorene compound. In example 1, the production of the polymer started with 2,7 dichlorofluorene which when results as a final product wherein 2,7 dichlorofluorene completely disappears (as discloses in example 1, thus no intermediate halogen containing product is left in the

final product) thus halogen-containing impurities are almost close to zero. Further reference discloses that product is 99% pure.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karabi Guharay whose telephone number is (571) 272-2452. The examiner can normally be reached on Monday-Friday 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nimeshkumar D. Patel can be reached on (571) 272-2457. The fax phone number for the organization is (703) 308-7382.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Karabi Guharay
Karabi Guharay
Patent Examiner
Art Unit 2879

Joseph Williams
Joseph Williams